

REMARKS

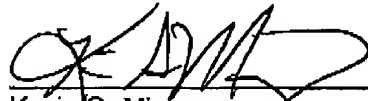
Applicant wishes to thank the Examiner for considering the present application. In the Office Action dated August 17, 2005, claims 7, 12 and 16-20 are pending in the application. The allowability of claims 16-20 is noted. Claims 7 and 12 are rejected.

Claims 7 and 12 stand rejected under 35 U.S.C. §101 because the claimed invention is non-statutory. The Examiner states that the steps "can be performed by mental processes, pencil and paper notations, and manual movement of documents." The Examiner states that "None of the steps involve a technological art, environment or machine." Applicant respectfully requests the Examiner to reconsider this rejection in view of the recently decided case Ex parte Carl A. Lundgren (2003-2088). This case was decided before the Board of Patent Appeals and Interferences as a precedential opinion based upon US Application 08/093,516. In this opinion, the BPAI essentially has removed any requirement that steps be performed on a computer as long as it still produces a concrete, tangible and useful result. Applicant respectfully submits that Claims 7 and 12 produce a concrete, tangible and useful result by reclassifying documents within the plurality of classes into a plurality of new classes when a classified document theme score is substantially similar to one of the respective new class theme scores. In the Ex parte Lundgren case, the Board found no basis for a "technological arts" test. The present application was rejected based upon a technical art rejection. In the Lundgren case the Board noted that the court in Musgrave asserted "all that is necessary in our view to make a sequence of operational steps a statutory process within 35 U.S.C. §101 is that it be in the technological arts so as to be in consonance with the constitutional purpose to promote the progress of 'useful arts'" The Board believed that this did not create a separate technological arts test. Therefore, because the Examiner has rejected claims based upon a technical art rejection, Applicant respectfully requests the Examiner to reconsider this rejection under Ex parte Lundgren. Therefore, Claims 7 and 12 have not been amended according to the Examiner's suggestions.

In light of the above amendments and remarks, Applicant submits that all rejections are now overcome. Applicant has added no new material to the application by these amendments. The application is now in condition for allowance and expeditious notice thereof is earnestly solicited. Should the Examiner have any questions or comments which would place the application in better condition for allowance, he is respectfully requested to call the undersigned attorney.

Please charge any fees required in the filing of this appeal to deposit account 06-1510.

Respectfully submitted,



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